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Respondents.

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THE HONOURABLE SRI JUSTICE C.V.RAMULU

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Writ Petition No. 3440 of 1997

ORDER:-

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 This Writ Petition is filed aggrieved by the order made in M.W. Case No.4 of 1996, dated 30.07.1996 on the file of the Authority Under Minimum Wages Act, Nellore.

 The petitioner is the employee. The second respondent is the Management. It appears, the petitioner filed an application claiming an amount of Rs.17,523/- towards the non-payment of Variable Dearness Allowance (V.D.A) from 01.04.1991 to 01.10.1995 under the Minimum Wages Act before the Authority Under the Minimum Wages Act and Assistant Commissioner of Labour, Nellore. It was his contention that he was getting a salary of Rs.3,450/- per month, which includes P.P and H.R.A. According to him, V.D.A was not paid to him, which is a statutory one. He has filed wage slip for April, 1996, marked as Ex.A1 and wage slip for May, 1996, marked as Ex.A2. In the cross-examination, the petitioner has stated that at present he is drawing Rs.3,450/- per month (Rs.2,325/- as basic + Rs.580/- as P.P + Rs.325/- as H.R.A). As on 01.04.1991, his gross salary was Rs.1,805/- per month (Rs.1,180/- as basic + Rs.500/- as P.P + Rs.125/- as H.R.A). Further, he has stated that as per G.O.Ms.No.33, dated 06.03.1991, he is supposed to get V.D.A, but the respondent not paid it.

 One Y.Narayana Reddy was examined as R.W.1 on

behalf of Management. In his evidence, he deposed that the applicant was working as a Field Officer in the company. The applicant is being paid more than minimum wages since 01.04.1991. The respondent need not pay any other allowance particularly, the V.D.A., as they are paying 90% more than the minimum wages as per G.O.Ms.No.33 dated 06.03.1991, thus, the petitioner is getting more than what is contemplated under the said G.O. as a minimum wage. Under those circumstances, the Authority Under Minimum Wages Act-cum-Assistant Commissioner of Labour, Nellore, dismissed the application. Aggrieved by the same, the present Writ Petition is filed.

Heard both sides.

Under the Minimum Wages Act, 1948, the employer shall pay to every employee engaged in a scheduled employment under him, wages at a rate not less than minimum rate of wages fixed by notification. The existing wage should not be less than what is fixed in the G.O. In the present case, under G.O.Ms.No.33 dated 06.03.1991, the minimum wages fixed is far less than what the petitioner is being paid. In fact, the petitioner is being paid 90% more than the minimum wages contemplated under G.O.Ms.No.33, dated 06.03.1991. Therefore, it cannot be said that the petitioner was not paid minimum wages as required under the above mentioned G.O. Therefore, the contention of the learned counsel for the petitioner that V.D.A is an independent allowance and irrespective of other allowances/wages, the same has to be paid as prescribed by the Government under the said G.O.,

and the respondent company misrepresented the G.O., cannot be accepted. If there is any variation in the payment of wages, it is always open for the petitioner to go before the appropriate authority and work out his remedies. In so far as invoking the provisions of Minimum Wages Act is concerned, it cannot be said that the respondents have committed any error in paying Minimum Wages as required under the above referred G.O. In fact, he was paid 90% more than the minimum wages contemplated under the G.O. notified.

The Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition is dismissed. However, this will not preclude the petitioner from working out his remedies as available under the law. No order as to costs.

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(C.V.RAMULU,J)

31.01.2007
VV